

April 10, 1975

SENATOR WARNER: Mr. President, members of the Legislature, I wonder if Senator Bereuter would yield to a couple of questions. First I want to confirm your assumption and my assumption relative to the comprehensive plans and zoning effecting the small communities in Lancaster county are essentially the same, or to my knowledge are identical I guess. Could you express yourself a little bit, Senator Bereuter, on how well the enactment of this bill, or how will it relate to encouraging a local community to develop comprehensive plans where they have not? Or will it? Will it only relate to their zoning power?

SENATOR BEREUTER: It will encourage them because they are required to implement land use regulations by a specified date or lose that power to county government. In order to exercise land use regulations under existing state law they must have first developed a comprehensive plan and officially adopted it. The second way which you'll encourage these political subdivisions to act is to make it easier for them to enforce it by permitting them to delegate their enforcement responsibilities, in part in this bill, and in part in 410, to a higher level of government. In other words, county government in most situations. Now as we've amended part of this bill, in the case of Lancaster county, they could also utilize the Zoning Board of Appeals of the city of Lincoln, if they chose to do so.

SENATOR WARNER: My second question, if a smaller governmental subdivision requested a higher level to assist them or to form this could they subsequently withdraw from that if they felt that they were not being served to their interest?

SENATOR BEREUTER: Yes, Senator Warner, they could, but after a period of notice which would not complicate the budget procedures of the county government.

SENATOR WARNER: One other question. It's more of a statement for you to either confirm whether I'm correct or comment on it if you like. As you stated, present law, as I understand it, permits all municipalities and counties to have comprehensive plans if they have zoning. But the current law had a Grandfather Clause in it, as I recall, which stated that prior to a certain time if a community had zoning it was unnecessary for them to have a comprehensive plan. Now I think a number of communities in the state, in rapidly growing areas, take . . . have some confidence that that statute protects them. I understand and I believe it's true that there have been court cases within the last year or so where judges have ruled that a community did not have effective zoning, because their comprehensive plan was outdated. The existence of the so called Grandfather Clause does not protect the community. As a result some of these towns in growing areas could have a developer move in, the community could conceivably not want the development to take place, but they in fact do not have an effective zoning law because they do not have an updated comprehensive plan. My point is that some how or other, and this is exactly what we're doing in Lancaster county within the area outside of the city of Lincoln, these communities need to be alerted. It seems to me possibly this bill would result in that. They need to be alerted that their comprehensive plan needs to be updated, that the zoning and subdivision ordinances need to be intact or else the citizens of those communities really have no protection whatsoever from the kind of growth that they think would be undesirable. Now essentially that's a